

Retelling Inclusive Schooling: The UN’s CRPD Committee in Selected Countries

Kas Mazurek¹ and Margret Winzer¹

¹University of Lethbridge, Lethbridge, Alberta, Canada

Abstract

This paper targets the principle of full inclusion as articulated by Article 24 of the Convention on the Rights of Persons with Disabilities and General Comment #4 through an analysis of the CRPD Committee’s Concluding Observations for Poland, Germany, and Australia. We find inherent tensions and dialectical contradictions between the ideals of full inclusion embodied in Article 24 and the reluctance of the State Parties to meet the targets. To date, the obligations entailed by Article 24 have failed to retrofit education systems.

Keywords: inclusive schooling, educational placement, United Nations CRPD

Author Note

Kas Mazurek  <https://orcid.org/0000-0002-1527-8385>

Margaret Winzer  <https://orcid.org/0000-0001-6051-2436>

We have no known conflict of interest to disclose.

Correspondence concerning this article should be addressed to: Margret Winzer, Professor Emerita, University of Lethbridge, Lethbridge, Alberta, Canada. Email: margret.winzer@uleth.ca

Retelling Inclusive Schooling: The UN's CRPD Committee in Selected Countries

Over the past three decades, we have approached various aspects of the theoretical and practical bases and rationales of inclusive schooling for students with disabilities. The present paper builds on our interest in a series of instruments generated by the United Nations and its agencies: UNESCO's 1994 Salamanca Statement, Article 24 of the Convention on the Rights of Persons with Disabilities (CRPD; UN, 2006), and General Comment #4 (UN, 2016; henceforth GC4). The practicalities of inclusive schooling detailed in these documents is undergirded and informed by the politics of educational placement, simply defined as students' school addresses. In other words, whether students with disabilities are placed with their peers in general classrooms in compliance with inclusive schooling or in the segregated settings typical of special education.

As a broad descriptor, inclusive schooling refers to initiatives to open general education to many, but not necessarily all, students with disabilities. It is distinguished from today's popular sentiment, full inclusion, portrayed by the trope 'All means all,' and denoted as all students with disabilities at all grade levels accommodated in general classrooms for their entire education careers to the exclusion of all other possible educational arrangements. Fully inclusive education environments are the major principle of Article 24 and the major aim of the CRPD Committee.

Educational placement functions as the theoretical and practical organizing construct of this paper. We use the placement issue as the basis for an analysis of a sample of Concluding Observations relevant to Article 24 produced by the CRPD Committee as the end point of the review process of individual State Parties (Note 1). Our information is chiefly drawn from readily accessible English language sources, particularly the Concluding Observations themselves, input from disabled persons' organizations (DPOs), and government documentation.

To date, only scant research has explicitly approached the Concluding Observations for Article 24. Notwithstanding, their messages carry considerable weight. Although placement issues are central to Article 24 and GC4, these texts tend to focus on the ‘what’ and the ‘why’ of inclusive schooling. They do not indicate how states can ensure what Byrne (2019) describes as a “rights-compliant transition from segregated to inclusive education” (p. 1), nor are the processes to achieve the goal of quality education in general systems specified. The Concluding Observations constitute at least part of the missing ‘how’ of inclusive schooling. Their concerns and recommendations not only serve as global norms and objectives but set out blueprints on how to get from one point to another and therefore move policy and practice forward.

Australia, Germany, and Poland are the spaces for the study. The selection is not random. We are familiar with developments in these jurisdictions through previous research (Baran & Winzer, 2017; Winzer & Mazurek, 2010) and through professional ties with experts from the field of special education and allied areas in each country. And, important to the overall purpose of this paper, each State Party has ratified the CRPD and, at varied degrees and levels, incorporated the treaty through its domestic legislation, policy, and programs. In terms of Concluding Observations, each country has received at least one review from the CRPD Committee.

The main argument that anchors this paper reiterates a common theme in our research. That is, despite the obvious benefits of inclusive schooling for many students with disabilities, the quest for fully inclusive education environments is, at best, problematic, probably impossible. We use the Concluding Observations for Article 24 in our selected countries as the departure point to argue that, despite the press by international organizations to elevate full inclusion to the governing ideology, it remains an advocacy priority, stalled at the level of discourse.

Overview of UN Documentation

The Concluding Observations do not stand alone. Rather, they form part of long chains of events and documents from the UN and its agencies as they increasingly orchestrate a normative understanding of what inclusive education should be. To provide context for the Concluding Observations, we touch on what are arguably the most important narratives in the creation and diffusion of the precepts and practices of inclusive schooling on the global stage.

- The Convention on the Rights of Persons with Disabilities (UN, 2006) provides a clear expression of international visions of rights for persons with disabilities, broadly described in the text as “those who have long-term physical, mental, intellectual or sensory impairments” (Article 1). As of July, 2021, 182 of the UN’s 193 member states had ratified the CRPD and committed themselves to meeting its targets.
- Article 24 of the CRPD demands that State Parties address the right to education and implement inclusion in the general system for students with disabilities as part of that right.
implement
- To conform to the UN monitoring process, each of its ten major human rights conventions has an attached committee that essentially tracks progress and conformity to the prescribed goals in ratifying countries. The CRPD Committee consists of independent experts from the area of international human rights elected by their State Parties for four-year terms; persons with disabilities are prominent members. Among its many functions, the Committee undertakes a complicated monitoring cycle to evaluate the legislative, judicial, policy, and associated measures that ratifying countries pursue in compliance with the CRPD.

- The review cycle typically includes four different steps and associated documents. It begins with a report submitted by a country within two years of the date of ratification, and then every four years following, often supplemented by shadow reports from interested parties such as DPOs. The Committee then evaluates the reports and returns general observations and a list of arising issues; third, the State Party replies to the list of issues. Finally, a set of Concluding Observations is issued for each substantive article of the CRPD (Articles 5 to 30).
- The CRPD Committee has produced seven General Comments that clarify and elaborate on complex and challenging rights found in the treaty, respond to pervasive areas of concern, and set out the Committee's views on the content and scope of the obligations of State Parties to different articles. In August of 2016, the Committee issued General Comment #4 as a formal guidance instrument on the meaning and scope of Article 24.
- The 2030 Agenda for Sustainable Development, adopted by the UN and member states in 2015, aims to galvanize efforts to promote sustainable development, decrease global inequalities, and realize universal quality education. It is not uncommon for the CRPD Committee to preface its recommendations to States by suggesting that the Concluding Observations be read in line with General Comment #4 and the Sustainable Development Goals (SDGs).

Notes on National Contexts

The differences between the histories and socio-political circumstances of Poland, Germany, and Australia are both substantial and obvious. Australia is a constitutional monarchy with a federal division of powers. The provision of schooling in the six states and two territories is a state responsibility, although the Commonwealth (federal) government influences education decisions through funding and federal disability legislation. The Republic of Poland belongs to the block of post-Communist European countries; it lives under a parliamentary and cabinet

government system. Education is overseen by the Ministry of National Education. According to its Constitution, Germany is a federal parliamentary republic of 16 states (Länder), each with its own ministry of education and state autonomy regarding educational matters. (Note 2).

Scholarship and practice from the United States and the United Kingdom played leading roles in creating the content and contours of the inclusive space and propelling the ideals into public and pedagogical discourses. Poland, Germany, and Australia were borrowers, far from the vanguard and relatively late entries onto the inclusive landscape. Importantly, however, each signed the Salamanca Statement and took steps to meet its demand to provide “equal access to education to every category of disabled person as an integral part of the education system” (UNESCO, 1994b, p. 4). Since then, they show a common impulse toward the educational inclusion of those with disabilities and have developed unique legislation, regulations, policies, and approaches.

In Poland, commitments to wider mainstream access for those with disabilities rode the tide of social, political, economic, and education change that accompanied the transition from the Soviet to a democratic system. The modern reiteration of special education that began in 1991 introduced new legislation: it authorized students with disabilities to learn in the mainstream but also provided for education in special schools. Three major organizational forms are currently available: inclusive classes, integrated classes, and special education (Baran & Winzer, 2017). Germany saw a wide expansion of schools to cater to eleven groups of disability during the 1960s; the national supply of special schools peaked in 1999 (Graumann & Algermissen, 2011; Powell, 2009). The Australian states and territories developed a complex of categorical special schools catering to most disabilities. Today, three systems are officially recognized: general

regular schools, support classes in regular schools, and special schools (Boyle & Anderson, 2020).

When the CRPD opened for ratification in July of 2008, Australia was among the original signatories. Germany ratified in February, 2009; Poland was the 121st nation to ratify in September of 2012. Ratification created a strong dynamic toward system change. Special education came under considerable attack, separate settings were dismantled, and special schools either closed or repurposed. For example, North-Rhine Westphalia, Germany's largest and most populous state, aggressively tried to implement full inclusion policy and pursued the closure of special schools (Anastasiou et al., 2020). Mounting numbers of students with disabilities were drawn into the orbit of general education environments. Entrich (2020), supported by Buchner and colleagues (2020), reported an increase in the proportion of students with disabilities in inclusive settings between 2008 and 2018 in many countries. Greater inclusion matched increasing numbers declared as requiring special support. Slee (2018) harnessed research showing that the prevalence of formal assignment of children to categories of special needs, especially in the area of behavior disorders, increased globally. In Germany, identification grew from 6 % in 2009 to 7.4 % in 2018; in the above-mentioned North-Rhine Westphalia, the number of students with social-emotional problems has grown dramatically (Ahrbeck & Felder, 2020; Anastasiou et al., 2020). Relative to special placements, the Australian government released a fact sheet in 2020 showing a 35 % growth in the number of students with disabilities attending special schools (AAIE, 2020).

CRPD Committee's Concluding Observations

Most current versions of inclusive schooling accommodate many, but not all students with disabilities in general classrooms. Dependent on needs, special education settings are routinely

employed. In contrast, Article 24 favors fully inclusive systems in which all students with disabilities, regardless of type and depth of needs, are accommodated in general classrooms. GC4's rigorous and substantive interpretation of Article 24 expands the core rights. At a minimum, it insists on full inclusion as a human right and key to maintaining norms of non-discrimination; forbids States to deny education to disabled children; requires them to include all pupils without exception in general education; and attempts to refashion domestic education policy by persuading sites with established special education systems to move to fully inclusive systems. General Comment #4 consistently interprets Article 24 to mean mainstream educational environments and undertakes to delegitimize special education. The text stresses its commitment to "ending segregation within educational settings" and insists that "Full inclusion is not compatible with two systems of education: mainstream and special/segregated education systems." Special education is indicted as an inferior and discriminatory education system; special schools are educationally bankrupt because students are "isolated from their peers and receive an inferior quality of education" (UN-CRPD, 2016, paras. 3, 39, 12).

It is against this backdrop of beliefs and commitments that the CRPD Committee produces its reviews of individual State Parties. The final step, the Concluding Observations, tend to be brief and succinct, typically patterned in three parts. First, praise for strategies and innovations that comply with the prescribed goals of the CRPD; second, areas of concern related to stalled development, inaction, or disputes; third, recommendations, including requests and urgings, for improving performance in areas of concern. Since the establishment of the CRPD Committee in 2008, its first review in 2011 (Spain), and until July of 2021, 94 countries and the European Union have completed a full cycle of monitoring, reporting, and review. For the countries of interest here, the CRPD Committee completed the first review cycle of Germany in 2015, Poland

in 2018. In 2013, and again in 2019, Australia appeared before the Committee for its initial and then periodic review. (Note 3).

Since 2009, general education in Germany has been increasingly open to students with disabilities (German Institute, 2015). The 16 states collectively signaled a shift of perspective toward inclusive education in 2011 with the formulation of Inclusive school education for children and young persons with disabilities (UN-CRPD, 2015a). Pockets of inclusive education have developed in some German states; some have amended their education acts to encompass inclusion. Advocates for full inclusion have stepped forward to demand the abolition of special schools and any special setting within general education. Still, as the German Institute for Human Rights, the national monitoring body for the CRPD in Germany complains, “A number of lander clearly refuse to see inclusion as a restructuring task, firmly adhering to the double structure of regular schools and special-needs schools” (German Institute, 2015, para. 132).

Data from Germany indicate that the enrolment of students with disabilities in inclusive classes gradually rose from 12 % in 2008 to 28 % in 2012-2013, to 40 % in 2018. By the 2018-2019 school year, 42.3 % of all students with disabilities were in inclusive settings. At the same time, the number of special schools decreased (Ahrbeck & Felder, 2020; Anastasiou et al., 2020; Buchner et al., 2020; German Institute, 2015). However, at the time of the CRPD Committee review in 2015, almost all the states maintained separate special complexes and most students with disabilities were taught in special schools and special classes. According to the CRPD Committee, Germany misses the goal of inclusion. The Concluding Observations expressed concern “that the State Party has an education system where the majority of students with disabilities attend segregated special needs schools” (UN-CRPD, 2015b).

Apanel (2013) characterized the Polish system as “partly about integration, but also partly about segregation” (p. 59). Although the numbers accommodated in the general system rose from almost 40 % in 2008 to 57 % in 2018 (Buchner et al., 2020), many students still attend special schools. Segregated education is regularly employed for those with severe intellectual, multiple, and physical disabilities (Baran & Winzer, 2017; Valeena & Kulesza, 2016). Education statistics also show the clear trend for students to move from inclusive placements to special schools as they increase in age. For example, the transition from primary to secondary school for students with intellectual disabilities often leads to relocation from general to special education (Baran & Winzer, 2017; Zadrozny & Silny, 2015). As we revisit below, the CRPD Committee’s response to Poland took particular issue with “The fact that the majority of students with disabilities, particularly with moderate and severe disabilities, are educated in segregated education settings” (UN-CRPD, 2018).

The reviews in 2013 and again in 2019 obliged Australia to disclose its disability policies and progress toward the goals of Article 24. The 2019 set of Concluding Observations echoed multiple areas of concern first aired in 2013 and clearly revealed the Committee’s frustration with Australia’s failure to address most of the issues. One Committee member chided that not much had changed as “many of the issues raised in 2013 and communicated in the then Concluding Observations are the same issues that civil society has brought to our attention 6 years later in 2019” (AAIE, 2019, p. 5). An abiding concern for the Committee surrounded the insufficient harmonization of the legislative domestic framework with the Convention: in education, for example, Australia’s enabling legislation, the Disability Standards for Education (Australian Attorney, 2006) does not fully comply with Article 24 and General Comment #4. Other deep concerns focused on insufficient funding for inclusive education in Australian

mainstream schools, the alarming growth of the numbers of students with disabilities in special placements, the growing rate and extent of segregation, a significant trend toward students attending special schools and away from mainstream schools, the tendency of local schools to turn away students because of disability, and the secondary school completion rates of those with disabilities at about half that of their peers (AAIE, 2019; ADPO, 2019; UN-CRPD, 2013, 2019).

Recommendation and Responses

As we noted, few scholarly offerings have yet explicitly examined the Concluding Observations for Article 24. In a seminal study, Bronagh Byrne (2019) found that 69 % of 72 sets of Concluding Observations focused on education placement; only limited attention was directed toward issues such as teacher training (38 %) and lack of reasonable accommodations (24 %). Byrne also pointed to disagreements between the CRPD Committee and local agents. Below, we present examples of Committee recommendations and individual country responses that illustrate a similar bent toward placement and, to a greater or lesser extent, fractious interactions between State Party and Committee.

The CRPD Committee prompted Germany to develop “a national strategy, action plan, timeline and targets to provide access to a high quality inclusive education system across all Lander.” It also recommended that Germany “scale down segregated schools to facilitate inclusion” and allow students to attend general education schools if that is their choice (UN-CRPD, 2015b). Yet, notes the German Institute (2015), the German states “do not interpret the aim of an inclusive system as meaning that segregated special education institutions should be called into question as such” (para. 130). Bernd Ahrbeck and colleagues (2018) explain that “Germany is not willing to follow the normative interpretation of the UN-CRPD.” Instead, it has

turned to the reservations allowable under CRPD guidelines and “will continue to pursue a scheme that includes institutional differentiation and special schools” (p. 4).

The education placement of students with disabilities in Poland is largely contingent on the type and depth of disability, the age of the student, and budget considerations. Students with severe and profound disabilities are dissuaded from general placements and regularly excluded (Baran & Winzer, 2017; Valeena & Kulesza, 2016). It is noteworthy that the Committee’s Concluding Observations to Poland suggested providing support measures for schools and teachers to advance inclusive education for students with moderate and severe disabilities because the diversity of impairment is barely acknowledged in the documents discussed here. The Salamanca Statement suggested that “Special attention should be paid to the needs of children and youth with severe and multiple disabilities” (UNESCO, 1994, p. 18). After that, the CRPD accounts for sensory disabilities (deaf, blind, and deaf blind) but does not reference other types or severity of impairment. Decisions taken during CRPD negotiations opposed and rejected terminology such as severe or multiple impairment lest it create a hierarchy within the disability community and undermine the solidarity between people with different impairments (Lawson & Beckett, 2020). GC4 mentions sensory impairments but virtually ignores other conditions. Save for the Polish case, there is an absence of reference to children with severe and profound needs in the Concluding Observations (Byrne, 2019).

Not every vested interest agrees with the Committee’s recommendations. Some Polish parent organizations claim that children with severe and multiple disabilities require the support and education of special facilities because public schools do not provide any of the right conditions for growth (Baran & Winzer, 2017). Polish studies show that teachers have a high

level of acceptance for the inclusion of students with milder forms of disability; the level of acceptance drops for those with sensory and significant disabilities (Ralic et al., 2019).

Australia's interactions with the CRPD Committee are notably extended and acrimonious. The flavor is clearly expressed in a background paper on the content and scope of the right to education in Australia prepared by the Australian government in 2019 to assist a Royal Commission with its enquiries into violence, abuse, neglect, and exploitation of people with disabilities (McCallum, 2020). The tangle of arguments laid out in the paper rely on the drafting history of Article 24 and the Australian government's own interpretation of the text.

In 2019, the CRPD Committee expressly stated that the Concluding Observations for Australia should be read in line with GC4 and target 4.5 of the SDGs that call for inclusive and quality education for all. Nevertheless, Australia dismisses GC4; it sees it as a useful source of guidance on Article 24 but "not a legally binding source of State Parties obligations on the right to education" (McCallum, 2020, para 4). It follows that Australia very often announces views quite divergent from those expressed in GC4; in response, the CRPD Committee seriously disputes the directions on inclusive schooling taken by the Australian government.

Article 24's ambivalence about special education along with its omission of the term in the text opens the way for contradicting interpretations. The Australian government argues that "the ordinary meaning of the terms of Article 24 does not support a view that specialist schools are prohibited under Article 24" (McCallum, 2020, para. 18). It does not agree that the continued use of segregated education constitutes a violation of Article 24. Rather, segregation is a modality within an educationally appropriate system and a State Party can meet its obligations to Article 24 through an education system that allows for funding for different education modalities (McCallum, 2020).

During the negotiations for Article 24, one of the most intensely debated issues centered on school choice; that is, whether students could choose inclusive education or segregated placements. Of course, Article 24's preference for inclusive schooling essentially rendered school choice moot as does GC4's contention that as inclusive schooling is a fundamental human right of all learners, parental responsibilities in school choice are subordinate to the rights of a child to an inclusive education. (The disparity with the recommendations to Germany mentioned above are beyond the scope of this paper). Based on its interpretation of Article 24, Australia asked that the Committee "clarify that State Parties may offer education through specialist classes or schools" (ADPO, 2019). The government highlighted the liberty of parents to choose either education in a segregated setting or inclusive education. It simultaneously takes the view that special placements are part of "a range of education options" to "ensure that the best interests of the student are a primary consideration." There may be times, the government argues, when specialist classes are more efficient in fulfilling State Parties obligations under the Convention than the general education system (McCallum, 2020, para 24).

To the CRPD Committee, Australia's interpretation of Article 24 that allows for the use of both mainstream schools and specialist schools "stands in stark contrast to what this Committee has consistently defined inclusive education to mean" (AAIE, 2019, p. 4). It rejected any notions that inclusive education can involve parents' choice between general and special education (AAIC, 2019). It insists that segregated education is not an option or a question of parental choice "akin to enrolling a child in a faith-based school or a school with a particular educational philosophy" (McCallum, 2020, p. 121). Rather, segregated schooling is an indefensible and inferior discriminatory placement.

Discussion

This paper examined the CRPD Committee’s Concluding Observations for Poland, Germany, and Australia. While each of these countries approaches inclusive schooling differently, all demonstrate growing fidelity to the principles of broader access for students with disabilities. When it comes to the principles of full inclusion expressed in Article 24, however, the CRPD Committee and individual State Parties stand on opposite sides of an ideological fault line in significant and important ways. The former promotes the ideals of full inclusion; the countries support school organizations ingrained within an ideology that sustains segregated placements as the norm for many students with disabilities.

From Australia, Boyle and Anderson (2020) point out that “Inclusive education has been at the forefront of educational policy for more than a quarter of a century,” but go on to say that “the nation’s education system is more segregated and exclusive than ever before” (p. 2). Others speak to the “systematic failure of the general education system to ensure access and inclusion of every Australian student” (AAIE, 2020, p. 5). Over the past decade, the segregation of students with disabilities has increased significantly with a shift toward students attending special schools and away from mainstream placements (ADPO, 2019). There are also reports of significant increases in the rates of home schooling, particularly for autistic students (AAIE, 2020). Not surprisingly, the CRPD Committee notes that “the trend of inclusion seems to be in decline” in Australia (AAIE, 2019, p. 3).

The gap between the vision of inclusive schooling variously embraced by the CRPD Committee and the Australian government appears large and unyielding. In fact, one DPO points to “the significant evidence of systematic failure and substantive non-compliance by Australian governments with Article 24 of the CRPD” (AAIE, 2019, p. 2). The government’s idiosyncratic

interpretations of Article 24 joined to its contestation of GC4 spill over to influence, at the very least, debates about restructuring, parent rights and school choice, and the status of special education in national policy.

Across Europe, most states have not conducted the necessary structural reforms to achieve fully inclusive systems (Buchner et al., 2020); at the same time, countries are finding it difficult to reduce the number of disabled students in special schools (de Beco, 2018). Development is noticeably slow and halting in Germany. Despite some movement toward inclusive schooling across the 16 states, Germany seems unready to shift course toward fully inclusive settings. For example, the percentage of students in special schools in relation to the total number of school-age students has not changed since 2007 which led the German Institute to complain that there is little evidence of progress in 10 years (Anastasiou et al., 2020). The call for inclusive education in Germany is contradicted by a complex of factors, starting with the double structure of a stratified and highly differentiated system of education and well-resourced systems of special schooling. Segregated placements remain the primary school address for many students. Allocation to special schools continues to grow, especially rapidly in Eastern Germany. As do special schools themselves: in the small Saarland state, two new special schools for students with social-emotional needs have opened recently (Anastasiou et al., 2020; Powell et al., 2016).

Compared to Australia and Germany, references to the Polish situation are promising. Writers mention that Poland has developed a “pro-inclusive education policy over the course of the last 30 years” (Buchner et al., 2020, p.13) and that inclusive education is “becoming a priority among the activities of the modern school and educational system in Poland” (Zyta et al., 2017, p. 249). Others, however, amass data to “clearly show that the right to inclusive education exists only in theory” (Zadrozny & Silny, 2015). Full inclusion is more aspiration than reality:

legislation and popular sentiment have codified a trend toward education in the mainstream but weakening the separate spaces occupied by general and special education is slow. Inclusive education in Poland is not conceptualized around the premise of all children: general education remains resistant to accommodating the participation and inclusion of those with significant disabilities.

Taken together, the Committee's recommendations and the individual responses of State Parties indicate a continuing, and even mounting, lack of coherent interplay between the globally legislated Article 24 and local willingness to endorse and commit to the vision of fully inclusive environments. The selected countries employ the principles and lexicon of inclusive schooling at the level of policy making, and system change to facilitate inclusive environments has accelerated in each country. But all stop far short of undertaking the systematic national education reforms necessary to comply with the principles, norms, and rules articulated by Article 24. Policy makers seem comfortable with slowly increasing the capacity of schools to support the participation of those with disabilities whilst maintaining robust systems of special education.

Although we used only three countries as a base, an emerging body of work supports the view that our selected countries are more the norm than the exception (e.g., Kauffman & Hornby, 2020; UNESCO, 2018; Winzer & Mazurek, 2017, 2019). Worldwide, the obligations entailed by Article 24 face substantive non-compliance by individual governments. In fact, the text of GC4 is replete with complaints about accountability, compliance, and enforcement. As examples, many countries do not take their pledges in earnest. They fail to understand or implement the human rights model of disability, misunderstand the nature and advantages of inclusive education, and are non-compliant with the treaty (UN-CRPD, 2016, para. 4).

A stark gap exists between the CRPD's aspirational text and the realities on the ground. In many countries retain a strong focus on specialized separate education for students with disabilities. The demand for non-inclusive settings has grown, segregated programs thrive, and predictions of special education's demise seem premature. Inclusive schooling remains embedded within the paradigm of special education; traditional mechanisms remain doggedly in place in barely changed school systems. Some countries have become less inclusive in recent years; others see a marked backlash against inclusive schooling. 'All means all' has not expanded at the expected rhythm. Most countries retain multitrack systems; the fully inclusive systems promoted by the Article 24 and the CRPD Committee are rare to non-existent (Boyle & Anderson, 2020; Winzer & Mazurek, 2017, 2019).

Postscript

This paper hinged on a single argument. We hold that, despite the press toward full inclusion in countries with in-place complexes of special education, the fulfilment of Article 24 is problematic, if not impossible. The argument centered on the Concluding Observations produced by the CRPD Committee for Article 24 that variously praise, critique, and guide State Parties. The concerns and specific recommendations for improvement embedded in the Observations provide insight into educational priorities, policies, and hoped-for practices in inclusive schooling as visualized by the international community. Just as critically, they illuminate the contested perspectives concerning both the desirability and feasibility of the inclusive agenda and foreground the reluctance of many countries to commit to fully inclusive practices.

Overall, the findings in this small study indicate a huge gap between the official recognition of full inclusion in the form of Article 24 and the actual situation on the ground. The

standards demanded by CRPD ratification entail a large degree of commitment and action by States. It is likely that many jurisdictions will struggle to fulfill even the bare essentials and that significant shortcomings in placement will persist. We conclude that the key orthodoxy of fully inclusive schooling may prove impossible to operationalize at this time, or perhaps at any time.

Notes

Note 1. The term, State Parties as used in international law refers to jurisdictions that have ratified the treaty and agree to follow its parameters subject to certain conditions.

Note 2. It is important to mention two issues related to the European Union (EU). First, after the EU joined the CRPD negotiations as a regional organization, it was involved in the drafting history of Article 24 and became the first ever supranational organization to sign and ratify an international human rights treaty. The CRPD Committee's Concluding Observations for the European Union, issued in October of 2015, were almost solely concerned "that in different European Union member States, many boys and girls, and adults with disabilities cannot access inclusive, quality education in line with the Convention" (UN-CRPD, 2015c). Second, Germany and Poland must act in concordance with EU rules that hold inclusive schooling as accepted policy orthodoxy. For example, the European Disability Strategy of 2010 outlines the EU's commitments to implementing the CRPD.

Note 3. The rights explicated by the CRPD are "indivisible, interrelated and interconnected" (Preamble). Because the general principles (Articles 1 to 4) inform each substantive article (Articles 5 to 30) that, of themselves, intersect, the CRPD Committee's Concluding Observation intermesh with other articles. While this paper spotlights Article 24, important related concerns and recommendations are specifically found in Article 7 (Children with disabilities), Article 8

Retelling Inclusive Schooling

(Awareness raising), Article 9 (Accessibility), Article 16 (Freedom from exploitation, violence, and abuse), and Article 23 (Home and family).

References

- Ahrbeck, B., & Felder, M. (2020). Analysis of barriers to inclusive schools in Germany: Why special education is necessary and not evil. *Education Sciences*, 20, online.
doi.org/10.3390/educsc/10120358
- Ahrbeck, B., Felder, M., & Schneiders, K. (2018). Lessons from educational reform in Germany: One school may not fit all. *Journal of International Special Needs Education*, 21, 23-33.
doi.org/10.9782/17-00036
- Apanel, D. (2013). Integrated education in contemporary Poland. *JAASEP*.
<http://www.naset.org/3779.0.html>
- Australian Alliance for Inclusive Education, All Means All Organization (AAIE) (2019, September 29). Committee on the Rights of Persons with Disabilities releases Concluding Observations- Australia. <https://allmeansall.org.au/committee-rights-persons-disabilities-releases-concluding-observations>
- Anastasiou, D, Felder, M., De Miranda Correia, L., Shemanov, A., Zweers, I., & Ahrbeck, B. (2020, January). The impact of Article 24 of the CRPD on special and inclusive education in Germany, Portugal, the Russian Federation and Netherlands. In J.M. Kauffman (Ed.) *On educational inclusion: Meanings, history, issues and international perspectives*. New York: Routledge. [Preprint copy, Research Gate].
- Australian Attorney General's Department (2006). *Disability Standards for Education 2005 plus notes*. Sydney: Australian Attorney General.
- Australian Disabled People's Organisations (ADPO) (2019). *Disability rights now: Australian civil society report to the United Nations Committee on the Rights of Persons with Disabilities*.

https://tbinternet.ohchr.org/Treaties/CRPD/SharedDocuments/AUS/INT-CRPD-CSS-AUS-35639_E.pdf

Baran, J. & Winzer, M. (2017). Democratizing education: A case study of inclusive schooling for students with special needs in Poland. *Education and Society*, 35, 5-21.

<https://doi.org/10.7459/es/35.2.02>

Boyle, C. & Anderson, J. (2020). The justification for inclusive education in Australia.

Prospects, 49, 2-3-217. <https://doi.org/10.1007/S11125-020-09494-x>

Byrne, B. (2019). How inclusive is the right to education? An assessment of the UN Convention on the Rights of Persons with Disabilities concluding observations. *International Journal of Inclusive Education*, 23, on-line. <https://doi.org/10.1080/13603116.2019.1651411>

Buchner, T., Shevlin, M., Donovan, M.A., Gercke, M., Goff, H., Siska, J., Janyskova, K., Smogorzewska, J., Szumski, G., Vlachou, A., Demo, H., Feyerer, E., & Corby, D. (2020). Same progress for all? Inclusive education, the United Nations Convention on the Rights of Persons with Disabilities and students with intellectual disability in European countries. *Journal of Policy and Practice in Intellectual Disabilities*, 17, 1-16.

<https://doi.org/10.1111/ippi.12368>

de Beco, G. (2018). The right to inclusive education: Why is there so much opposition to its implementation? In *International Journal of Law in Context*, 143, 396-414.

<https://doi.org/10.1017/S174455231.7000532>

Entrich, S.R. (2020) . Understanding cross-national differences in inclusive education coverage: An empirical analysis. *IAFOR Journal of Inclusive Education*, 9, 21-40.

<https://doi.org/10.22492/ije.9.1.02>

German Institute for Human Rights, National Monitoring Body for the UN Convention on the Rights of Persons with Disabilities (2015, March). Parallel report to the UN Committee on the Rights of Persons with Disabilities in the context of the examination of the Initial Report of Germany under Article 35 of the UN Convention on the Rights of Persons with Disabilities. German Institute for Human Rights.

Graumann, O. & Algermissen, U. (2011) Special education from an international perspective: The case of Germany. In M. Winzer & K. Mazurek (Eds.) International practices in special education: Debates and challenges. (pp. 103-121). Washington, DC: Gallaudet University Press.

Kauffman, J.M. & Hornby, G. (2020). Inclusive vision versus special education reality. *Education Sciences*, 10, online. doi:3390/educsci.10090258

Lawson, A., & Beckett, A.E. (2020). The social and human rights models of disability: Toward a complementarity thesis. *International Journal of Human Rights*. 25, 348-379.
<https://doi.org/10.1080/13642987.2020.178353>

McCallum, R. (2020). Research report: Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. The United Nations Convention on the Rights of Persons with Disabilities, an assessment of Australia's level of compliance. Canberra: Australian Government.

Powell, J.J. (2009). To segregate or to separate: Special education expansion and divergence in the United States and Germany. *Comparative Education Review*, 53, 161-187.
[jstor.org/stable/10.1086/597816](https://www.jstor.org/stable/10.1086/597816)

Powell, J., Edelstein, B., & Blanck, J.M. (2016). Awareness-raising: Legitimization or backlash? Effects of the UN Convention on the Rights of Persons with Disabilities on education

systems in Germany. *Globalisation, Societies and Education*, 14, 227-250.

<https://doi.org/10.1080/14767724.2014.98.2076>

Ralic, A., Cvitkovic, D., Zyta, A., & Cwirynkalo, K. (2019). The quality of inclusive education from the perspective of teachers in Poland and Croatia. *Hrvatska revija za rehabilitacijska istrazivanja*, 56, 1-29. <https://doi.org/10.1080/03050068.2019.1657699>

Slee, R. (2018). Defining the scope of inclusive education: Think piece prepared for the 2020 Global Education Monitoring Report Inclusion and Education 2.

www.researchg.net/publication/330741940

United Nations (2006). Convention on the Rights of Persons with Disabilities and Optional Protocol. www.un.org/disabilities/document/convention/convoptprot-e-pdf

United Nations, Committee on the Rights of Persons with Disabilities (2013, 2-13 September 29). Concluding Observations on the initial report of Australia. CRPD/C/AUS/CO/1

United Nations, Committee on the Rights of Persons with Disabilities (2015a, January 15). List of issues in relation to the initial report of Germany. CRPD/C/DEU/Q/1/Add1

United Nations, Committee on the Rights of Persons with Disabilities (2015b, May 13). Concluding Observations on the initial report of Germany. CRPD/C/DEU/CO/1

United Nations, Committee on the Rights of Persons with Disabilities (2015c, 2 October). Concluding Observations on the initial report of the European Union. CRPD/C/EU/CO/1.

United Nations, Committee on the Rights of Persons with Disabilities (2016). General comment #4 Article 24: Right to inclusive education. Geneva: United Nations.

<http://www.ohchr.org/UN/HRBodies/CRPD/GC.aspx>

United Nations, Committee on the Rights of Persons with Disabilities (2018, 29 October). Concluding Observations on the initial report of Poland. CRPD/C/POL/Co/1

United Nations, Committee on the Rights of Persons with Disabilities (2019). Concluding Observations on the combined second and third report of Australia.

<http://docstore.ohchr.org/Selfservices/FilesHandler.ashx?enc=6>

UNESCO (1994). Final report: World conference on special needs education: Access and quality. Salamanca, Spain: UNESCO.

unesdoc.unesco.org/images/0009/000984/098427.eo.pdf

UNESCO (2018). Concept note for the 2020 Global Education Monitoring Report on Inclusion.

Paris: UNESCO. www.gedclearinghouse.org/sites/default/files/resources/190167

Valeena, R. & Kulesza, E. (2016). Education for persons with special needs: Polish and Russian experience. *International Journal of Environmental and Science Education*, 11, 1619-

1629. <https://doi.org/10.12973/ijise.2016.367a>

Winzer, M. & Mazurek, K. (2010). Different spaces, different places: An analysis of the inclusive reform for students with disabilities in the United States and Germany. *World Studies in Education*, 11, 49-68. <https://doi.org/10.7549/wse/11.2.04>

Winzer, M. & Mazurek, K. (2017). The Convention on the Rights of Persons with Disabilities: Reconstructing disability to reimagine education. In M. Hughes & E. Talbott (Eds.) *Handbook of research on diversity in special education* (pp. 3-22) New York: John Wiley.

Winzer, M. & Mazurek, K. (2019). UN Convention on the Rights of Persons with Disabilities: A critique of Article 24: Precedents, polarized paradigms, flawed contingencies. *World Studies in Education*, 20, 5-22. <https://doi.org/10.7549/wse/20.2.0>

Zadrozny, J. & Silny, M. (2015). Alternative report on the implementation of the UN Convention on the Rights of Persons with Disabilities. Warsaw: KSK Foundation.

Zyta, A., Byra, S., & Cwirynkalo, K. (2017). Education of children and youth with disabilities in Poland and the UN Convention on the Rights of Persons with Disabilities. *Hrvatska Revija za Rehabilitacijska Istrazivanja* 53, 244-251. hrri.erf.hr/content/uploads/2020/04/Zyta_Byra_Cwirynkalo_Education_of_children_abd_youth_with_disabilities_in_Poland.pdf



This work is licensed under a [Creative Commons Attribution-NonCommercial-NoDerivs 3.0 Unported License](https://creativecommons.org/licenses/by-nc-nd/3.0/).